
(2019) 11 JH CK 0019
In the Jharkhand High Court
Case No : Writ Petition (c) No. 4550 Of 2019

Phul Kumar Jha APPELLANT
Vs
State Of Jharkhand And Ors RESPONDENT

Date of Decision : 18-11-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 11 JH CK 0019

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : V.N.Jha, Sanjeev Thakur, Indrajeet Sinha, Parth Jalan

Final Decision : Disposed Of

Judgement

Before passing the order, reference to the order dated 17th October, 2019 is required to be made which reads hereunder as :-

"4/Dated: 17th October, 2019

Reference may be made to the order dated 15.10.2019, whereby and whereunder following order has been passed:

"The writ petition is under Article 226 of the Constitution of India whereby and whereunder prayer has been made for disposal of the Revision Case No.84/2000-01 which is now pending in pursuance to the order for remand passed by Division Bench of this Court in intra-court appeal being LPA No.459 of 2013 dated 01.05.2019.

It is the grievance of the petitioner that there is no progress in the aforesaid revision and in the meanwhile respondent Nos.5 to 23 have entered into an agreement with the developers for development of land in question and in pursuance to the aforesaid agreement, the developer is proceeding by making construction over the land in question, and therefore, the subsequent prayer has been made for restraining in making further construction over the land in

question.

It has orally been argued by the learned counsel for the petitioner that there is no progress at all in the revision since as per his instructions, even the record is not available.

Ms. Aprajita Bhardwaj, learned AC to AG has sought for time to seek instructions in the matter.

This Court before passing any further order deem it fit and proper to look into the record of the Revision Case No.84/2000- 01, to be produced by day after tomorrow.

List this case on 17.10.2019.

Let a copy of this order be handed over to the learned counsel appearing for the State of Jharkhand."

Learned Advocate General has appeared and fairly submitted that original record of Revision Case No.84 of 2000-01 is not available in the office of the revisional authority.

However, he submits that sincere efforts is being made for reconstruction of the file, therefore, prays to list this case after 'Deepawali Vacation.'

In view thereof, let the case be listed on 18.11.2019.

Mr. V.N. Jha, learned counsel for the petitioner submits that since the revision is lying pending before the revisional authority and in course of its pendency the private respondents are continuing with the construction work, therefore, order of restraintment may be passed so that private respondents may not carry out the construction work.

This Court, after going through the intra Court appeal being LPA No.459 of 2013 whereby and whereunder matter has been remitted before the Deputy Commissioner for deciding the Revision Case No.84 of 2000-01 afresh, but due to non-availability of the record of revision there is no progress in the proceeding and as such, the propriety demands that the construction work over the land in question is to be kept at hold.

Therefore, till the next date, the Status quo pertaining to construction over the land in question shall be maintained.

The Deputy Commissioner, Ranchi is directed to ensure the compliance of the interim order as above."

Mr. Indrajit Sinha, learned counsel, by placing one interlocutory application being I.A. 10552 of 2019, has prayed for acceptance of Vakalatnama on record on behalf of Respondent No.23.

Considering the reason assigned therein, the Vakalatnama filed on behalf of

Respondent No.23 is accepted.

I.A. No. 10552 of 2019 stands disposed of.

Learned counsel for the parties have submitted that in pursuance to the undertaking given by learned Advocate General, as would appear from the order dated 17th October, 2019, the file of Revision Case No. 84 of 2000-01 has been reconstructed.

Mr. V.N.Jha, learned counsel appearing for the petitioner has submitted that next date has been fixed by the revisional authority for hearing in the matter is on 20th December, 2019, therefore, the revisional authority may be directed to dispose of the revision within specific period.

He further submits that since this Court has passed an order of status quo as because the construction work was being carried out over the land in question, therefore, the said interim order may be allowed to continue till the disposal of the Revision Case No. 84 of 2000-01.

Mr. Indrajit Sinha, learned counsel appearing for Respondent No.23 assisted by Mr. Parth Jalan, has seriously disputed the said submission.

This Court, after having heard learned counsel for the parties and after appreciating their arguments, deems it fit and proper first to refer the factual aspect which led this Court to pass the interim order to maintain status quo pertaining to construction over the land in question.

As would appear from order dated 15th October, 2019, argument was advanced on behalf of the petitioner that in pursuance to the remand order passed by the Division Bench of this Court in L.P.A. No. 459 of 2013, disposed of on 01.05.2019, by which the revisional authority has been directed to revive the Revision Case No. 84 of 2000-01 and in pursuance to the said remand order, said revision case has become revived but in the meanwhile, Respondent Nos. 5 to 23 have entered into an agreement with the developer for development of the land in question and in pursuance to the aforesaid agreement the developer is proceeding by making construction over the land in question, as such, prayer for maintaining status quo has been sought for.

Further submission has been made as per instruction of the petitioner that even the record was not available.

This Court, after considering the aforesaid argument having been advanced by the learned counsel for the petitioner, has directed the learned State counsel to bring the record of the Revision Case No. 84 of 2000-01 by producing it before the Court on the next date fixed.

The next date fixed was on 17th October, 2019 and on that date learned Advocate General has put in appearance to represent the functionaries of the respondent State and confessed that the original record of Revision Case No.84 of 2000-01 is not available, however, he has informed to this Court that efforts

are being taken for reconstruction of the file and on that ground the matter has been sought to be adjourned to list it after Deepawali Vacation.

Learned counsel appearing for the petitioner, on such submission, has prayed for passing an interim order of status quo on the ground that due to misplacement of the original record of the revision case is not in progress while on the other hand, the construction work is being carried out.

This Court, after considering the aforesaid submission and the contention made by the learned Advocate General about misplacement of the original record of Revision Case No.84 of 2000-01 and in the meanwhile the private respondents have started the construction over the land in question has passed an order to maintain status quo.

Today it has been informed about the hearing having been started by the revisional court after reconstruction of the original file. Although, original file has been reconstructed, but the revisional authority, being the custodian of the record in exercise of quasi-judicial power as conferred under the Bihar Tenants Holdings (Maintenance of Records) Act, 1973, is duty bound to keep the record in safe custody but it is the admitted case of the State that original record of the said revisional case has been misplaced.

This Court is constrained to refer herein that it is unfortunate on the part of the revisional authority, who is a quasi-judicial authority under the statutory provision, is negligent in discharge of his duty.

Although the file has been reconstructed and in pursuance thereto the revision would be disposed of but fact remains that the revisional authority is not pertinent in maintaining the official record and the same has been brought to the notice of this Court which has also been confessed by the learned Advocate General, therefore, the revisional authority is directed in its administrative side to conduct an enquiry about misplacement of the file and deal with the erring officer/staffs under applicable discipline and appeal rule.

This Court is passing such order keeping the fact into consideration that if such order would not be passed, it will accelerate such dereliction of duty and for benefit of other parties the file will be misplaced or taken away by the party who is to get advantage of pendency of the case.

It is also directed to the revisional authority to deal with the situation strictly.

Since hearing is going on, therefore, this Court deems it fit and proper to dispose of the writ petition by directing the revisional authority to decide the revision within a period of two months from today.

Since the order of status quo has been granted by this Court keeping the fact into consideration that the Respondent No.23 along with other private respondents have been carrying out the construction work over the land in question, in the special circumstances about misplacement of the original record

of Revision Case No. 84 of 2000-01 which has been revived after the order passed by the Division Bench of this Court L.P.A. No. 459 of 2013, therefore, deems it fit and proper to extend the order of status quo which shall be operative for a period of two months i.e. till the date of disposal of the revision.

The petitioner as also the contesting respondents are directed to cooperate with the proceeding.

The revisional authority is directed to proceed in accordance with law in case of non-appearance of the either of the parties.

Any observation made in this order will not prejudice the issue and the revisional authority will decide the case its own merit.

With these observations and directions, this writ petition is disposed of. Accordingly, I.A. No. 10553 of 2019 filed for vacating the interim order dated 17.10.2019 also stands disposed of.

Let this order be communicated to the Chief Secretary of the State of Jharkhand. Mr. Sanjeev Thakur, learned S.C.(L&C)-I, appearing for the State is directed to communicate the order today itself.